

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, January 20, 2009
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Livengood called the meeting to order at 6:00 PM. City Clerk Lavelle called the roll.

PRESENT: Mayor Livengood, Vice Mayor McHugh, Councilmembers Giordano, Gomez and Polanski

ABSENT: Councilmembers Gomez and Giordano were absent at 6:00 PM. Councilmember Gomez arrived at 6:05 PM and Councilmember Giordano arrived at 6:07 PM for Closed Session.

CLOSED SESSION

Mayor Livengood stated the City Council would convene to Closed Session for discussion of labor negotiations with three employee groups: Milpitas Professional and Technical Group (ProTech), Milpitas Police Officers Association (MPOA), and International Association of Firefighters (IAFF). Litigation for discussion included Swendell vs. City of Milpitas and Richner vs. City of Milpitas.

City Council convened in Open Session at 7:00 PM.

CLOSED SESSION ANNOUNCEMENT

City Attorney Mike Ogaz announced a settlement in Workers Compensation Appeals Board case, Richner v. City of Milpitas, in the amount of \$3,500 on a unanimous vote of the Council.

PLEDGE

Boy Scouts Troop No. 92 presented colors and led all in the Pledge of Allegiance.

MINUTES

Motion: to approve the City Council meeting minutes of January 6, 2009, as amended

Vice Mayor McHugh directed three corrections to his remarks on pages 9 and 10 of the draft meeting minutes.

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

Motion: to approve the Council Calendar/Schedule of Meetings for January and February 2009, as amended

City Manager Tom Williams announced one addition of a special meeting of the Economic Development Commission at 12 noon on Wednesday, January 28 at the Crowne Plaza Hotel.

Councilmember Giordano noted two upcoming Library Joint Powers Authority meetings, on January 22 and on February 26, both scheduled at 1:30 PM.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

PRESENTATIONS

Mayor Livengood honored Dr. Martin Luther King Jr. upon the holiday celebrating his birthday the previous day and remarked on the inauguration of the new U.S. President Barack Obama this

date in Washington, DC. The Mayor presented a brief video, including a clip of Rev. King's "I Have a Dream" speech.

Next, Mayor Livengood presented a proclamation to two active members of the Black Caucus in Milpitas, Demetress Morris and Carmen Montano.

Finally, Mayor Livengood honored Milpitas resident Mrs. Emilia Serpa, who was soon to reach her 100th Birthday at the end of January. Ms. Giordano and County Supervisor Dave Cortese assisted the Mayor in his presentation to Mrs. Serpa. Mrs. Serpa's daughter in law Karen Serpa presented a book on the Azores Islands of Portugal, where she was born, for the Milpitas Library.

PUBLIC FORUM

Steve Munzel, Chair of the Parks, Recreation and Cultural Resources Commission, presented a petition from the Commission to the Council, regarding the group's desire to have a park next to the new Milpitas Library. He also recommended purchase of the Cracolice building, to be used as Community Center near the northeast corner of Main and Weller St. Mr. Munzel stated how grand the library grand opening celebration was, and in particular wanted to acknowledge City staff Ian McNamara and Leslie Stobbe who coordinated the event.

Frank DeSmidt invited all to the Rotary Club's Gene Schwab Award Luncheon on Monday, January 26, celebrating Dale Flunoy's outstanding service as an employee. He also announced the Chamber of Commerce's annual Crab Feed on March 6 at 6:00 PM.

ANNOUNCEMENTS

Vice Mayor McHugh attended the DARE graduation at Randall School on January 7. On January 13, he attended the Senior Advisory Commission meeting, where he got a first look at the planned new Senior Center, "a most impressive facility." On January 15, he went to a retirement celebration for recently retired Councilmember Don Burr (and former Police Chief) in Campbell. He attended a Vietnamese New Year event on January 17 in San Jose.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

Councilmember Giordano had stepped away from the dais momentarily.

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as submitted

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

***5. Telecommunications Commission Re-appointments**

Re-appointed Albert Alcorn to a term that expires in January 2011.
Re-appointed William Lam to a term that expires in January 2011.
Re-appointed Satish Bansal to a term that expires in January 2011.
Re-appointed Sumeet Ahuja as Alternate No. 1 to a term that expires in January 2011.

***8. Approve Presentation of Technical Paper at Conference**

Authorized City of Milpitas Engineering staff to present a technical paper at the American Society of Civil Engineers 2009 Lifeline Earthquake Engineering in a Multihazard Environment Conference, on the City of Milpitas's Strategic Plan to Protect and Restore Water Utility Service in the event of a Magnitude 7 Earthquake.

***9. Auction 1993 Ford vehicle**

Approved the request to auction the 1993 Ford Thunderbird vehicle, a 1993 Ford Thunderbird, VIN# 1FAPP62TXPH125772, that reached the end of its useful life.

- *10. Ordinance No. 38.786 Waived the second reading and adopted Ordinance No. 38.786 for Zoning Amendment No. ZA08-0009.
- *11. Ordinance No. 278 Waived the second reading and adopted Ordinance No. 278 establishing levies pursuant to the new Community Facilities District 2008-1.
- *12. Purchase of Equipment Adopted Resolution No. 7824 approving the purchase of assorted Badger water meters from National Meter and Automation for the not-to-exceed amount of \$46,295.28.
- *13. Purchase of Document Imaging Services Adopted Resolution No. 7825 approving the purchase of document imaging services for the not-to-exceed amount of \$48,000 from Peelle Technologies.
- *14. Amend Contract with Tennis Program provider Adopted Resolution No. 7826 authorizing the City Manager to execute an amendment to the contract with Barry Poole extending the termination date to June 30, 2009 and for a total amount not-to-exceed \$38,000.
- *15. Payment to County for Election Services Approved payment of \$46,246 to the County of Santa Clara for the 2008 general election costs for the Municipal Election held on November 4, 2008.

PUBLIC HEARING

- 1. Resolution for Annual Weed Abatement Program Assistant Fire Marshal Albert Zamora presented the history of the program, and he reviewed actions taken to date for the weed abatement program this year. He described the list of properties requiring clearance of weeds (included with the agenda packet).

Mayor Livengood opened the public hearing for comment, and none were heard.

(1) Motion: move to close the public hearing

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: adopt Resolution No. 7823 directing the County Agricultural Commissioner to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

UNFINISHED BUSINESS

- 2. Report on Front Yard Maintenance Regulations Senior Housing and Neighborhood Preservation Specialist Gloria Anaya explained the enforcement tool, the Neighborhood Beautification Ordinance, as the primary one for front lawn maintenance in the City. Lawns need only be cut or mowed (dry or not) and be kept weed free (no requirement to be maintained green). The NBO operates on a complaint driven basis, per Council direction. 780 total calls were received over the past 12 months - 169 were related to the ordinance overall and only 3% were related to front yard landscaping, specifically.

Ms. Anaya provided information from a recent survey of neighboring and other California cities, and staff found no consistent application among cities. She noted that Council might next choose to implement: (1) no changes to the existing ordinance, (2) pro-active enforcement, or (3) to direct staff to return with changes to the NBO.

Councilmember Giordano asked about the cities surveyed and how those were chosen. Staff located cities that had ordinances related to front yards specifically. Ms. Giordano re-iterated the two-fold issue: that of weeds in front yards and the maintenance of landscaping. The City of San Dimas was one example of a clear ordinance, and the Councilmember wanted to consider not only the economics of the issue.

Vice Mayor McHugh asked for an explanation on pro-active enforcement. Ms. Anaya explained that her department presently responded to complaints received by phone or e-mail or by letter from residents, or other City departments or officials. The Vice Mayor stated that he was okay with looking at this subject a little deeper. He pointed out that it could be a dispute issue between neighbors at times, however.

Councilmember Polanski mentioned that the Community Advisory Commission (CAC) had discussed this issue and the proactive enforcement issue. The Commission could review this topic further and come back to the Council with a recommendation about active enforcement. She felt that the concerns of senior residents were important too, particularly, in terms of costs for watering the yard.

Motion: to receive the report on Front Yard Maintenance Regulations and direct staff to take front yard maintenance regulations and the issue of proactive v. current enforcement to the Community Advisory Commission for a recommendation to City Council, and to discuss this topic at the scheduled Thursday, February 5 Town Hall meeting at the Community Center.

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5
NOES: 0

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER Mayor/Agency Chair Livengood called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 7:48 PM.

ROLL CALL **PRESENT:** Chair/Mayor Livengood, Vice Chair/Vice Mayor McHugh, Agency/Councilmembers Giordano, Gomez and Polanski

ABSENT: None

RA 2. MINUTES Motion: to approve the meeting minutes of the Redevelopment Agency meeting of January 6, 2009

Motion/Second: Agency/Councilmember Polanski / Vice Chair/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5
NOES: 0

RA 3. Agenda Approval and Consent Calendar Motion: to approve the agenda and consent calendar item (*)

Motion/Second: Agency/Councilmember Giordano/ Agency/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

*** RA 4. Resolution Granting Initial Acceptance, Project 8160** Adopted Agency Resolution No. RA318 granting initial acceptance of the Sports Center Large Gymnasium Improvements, Project No. 8160.

RA 5. ADJOURNMENT Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 7:48 PM.

REPORTS OF OFFICER

3. Mayor's proposed Alternative Fuel Vehicles Policy

Mayor Livengood recommended that the City adopt a policy to maintain a fleet of vehicles that utilize only alternative fuels in order to permit Milpitas to become a greener City. With that concept, he sought Council concurrence to direct the City Manager to bring back a policy on this topic.

Motion: to direct the City Manager to pursue an Alternative Fuel Vehicles Policy for consideration by the Council

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

4. Mayor's Assignment for the Neighborhood Services and Education Subcommittee

Mayor Livengood explained his desire that the Council receive regular updates on the new Milpitas Senior Center construction, to be built on the site of the old library next door to City Hall. He would like the Council to approve his recommendation to direct one of the new Council subcommittees to be assigned the oversight of this project.

Motion: to approve the Mayor's recommendation to assign the Neighborhood Services and Education Subcommittee the task of oversight of the new Senior Center project, and, to come back with a budget and time frame for construction of the Center as its first work product

Councilmember Polanski commented that she would be pleased, as a member of that subcommittee, to accept the responsibility on the next major project for the City.

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

NEW BUSINESS

6. Report on County's Comprehensive County Expressway Planning Study

Two items were approved on the consent calendar.

Transportation Engineer Jaime Rodriguez introduced Santa Clara County Deputy Director of Roads, Airports and Infrastructure along with transportation planning consultant Ms. Dawn Cameron.

The 2008 County Expressway Study is a long-term plan to relieve local streets and supplement the freeway system and is an update to a 2004 study. It would feed into regional transportation plans, along with the Santa Clara Valley Transportation Authority and the Metropolitan Transportation Commission.

Projects have been placed in priority tiers with oversight by the Policy Advisory Board and Technical Group. Two tiers, 1A and 1B, were established, with 25 Tier 1A projects. The full plan was available on the website www.expressways.info where the public could provide comments on the plan update. It was scheduled to go to the Board of Supervisors in February for adoption.

Mayor Livengood asked County staff if any projects were "shovel ready" as the new President termed those he may ask Congress to fund. Mr. Collen replied there might be some paving on Montague, with a little bit in Milpitas, that was immediately ready.

Councilmember Polanski asked about the cost of the Montague portion, with widening and improvements. County staff responded it was looking at what was not in the San Jose development plan, including the Montague widening/expansion plan, and were working with San Jose on funds committed for that segment.

Vice Mayor McHugh asked about the \$7 million shortfall, noted in the report (Table 13) with regard to lane widening on Montague. He inquired of County staff if those funds should be available in 2010. Mr. Collen mentioned that funding was in part up to the VTA, on the expenditure plan.

Motion: to receive the oral report from County of Santa Clara staff on the 2008 Update of the Comprehensive County Expressway Planning Study; and, to authorize the Mayor to send a letter to the County Board of Supervisors indicating the City of Milpitas' endorsement of the draft 2008 Update

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

Councilmember Giordano had stepped away from the dais for a few minutes, prior to the vote taken, and she returned prior to discussion on Item No. 7.

7. Economic Development Report

Economic Development Manager Diana Barnhart displayed a new water bottle product, on sale the following day at the Milpitas Sports Center, which displayed the new City brand/logo on it. It was a joint effort of Economic Development and Parks and Recreation Department.

Ms. Barnhart reviewed facts and figures with regard to general fund revenues, from a variety of sources including Transient Occupancy (hotel) Tax. She updated the City Council on various economic outreach efforts: online hotel room sales TOT, outreach to the Mervyn's building owner, retail tracking, SanDisk employment, the use tax increase (due to outreach to Cisco and other companies), and increased layoffs in the City, for the current quarter of the Fiscal Year.

Mayor Livengood noted data from some current economic reports he received, including notice of layoffs, and asked the City Attorney to provide that to Council. He had a recent productive meeting with City's Economic Development Commission, and noted the membership of the body does not have a current member from the retail segment of business community, required per its by-laws, and that category did need to be represented on that Commission.

Motion: to receive the monthly Economic Development report from the Economic Development Manager

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5
NOES: 0

ORDINANCES

Two ordinances were adopted on the consent calendar.

RESOLUTIONS

Three resolutions were adopted on the consent calendar.

CLAIM & DEMAND

One item was approved for payment, on the consent calendar.

ADJOURNMENT

Mayor Livengood asked for well wishes for Mr. Jim Rabe, who was in the hospital, and he adjourned the City Council meeting at 8:10 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on February 3, 2009.

Mary Lavelle, City Clerk